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10/607,194	06/25/2003	Mark J. Radcliffe	MS1-1547US	5791

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MICROSOFT CORPORATION
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EXAMINER
MOSSER, KATHLEEN MICHELE

ART UNIT	PAPER NUMBER
3715	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 November 2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8,32-41 and 43-48* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8, 32-41 and 43-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

In response to the amendment filed11/04/2008; claims 1-8, 32-41 and 43-48 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set

forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are

applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are

summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or
        nonobviousness.

1.   Claims 1-8, 32-41 and 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Ostrover et al (US 5469370) in view of Qian et al (US 2002/0193895) further in view of Lakritz (US

6623529) Ostrover teaches a method for providing audio and lyrical data to a user including: receiving a

user request to play an audio file (col. 2: 38-41); identifying based on the user request , a preferred

language for displaying lyrics (col. 3: 16-20); identifying an alternative language from for the lyrics if the

preferred language is not available (col. 25: 21-32) and playing the audio data and the lyrics with either

the preferred or the alternative lyrics, as needed (see Figures 5A, 5B and 5D), as in claims 1, 8, 32, 37,

38, and 45-47 It is noted that process of selecting an alternative language is not automated within the

Ostrover process. It has been held that the automation of an otherwise manual practice, when the

automation of such a process is within the ordinary skill in the art, is an obvious modification and does not

render a claim patentable over the prior art. The process of having a computer system automatically

determine an alternative language is akin to having a system switch to a default presentation language when a selected language is not available. The programming required for such a selection process is well within the ordinary skill in the art and thus the automation of the manual process of Ostrover et al is considered prima facie obvious. Ostrover teaches that the use of English if lyric data is not available in the preferred or alternate language (claims 33), see the description of the default language in col. 3: 8-14 and col. 23: 9-13. The lyric sets, including the alternate lyrics, being stored separate from the audio file (claims 3 and 41) in at least col. 22: 34-56.

Ostrover does not teach that the selection of the alternate language/sublanguage (dialect) is selected by searching a "hierarchical list" of language priorities (claims 1, 7, 8, 32, 37, 38, 43, and 46). Lakritz teaches a procedure for procuring information over a network which automatically identifies a preferred language/dialect and, when the data is not available in the preferred language attempts to retrieve the next closest based upon a sorted list, see col. 5: 60 - col. 6: 2). It would have been obvious to one of ordinary skill in the art to include the prioritized list of related languages, as taught by Lakritz, in implementing the invention of Ostrover so as to automatically determine the closest language to present to the user when a preferred or optimal language is unavailable (the benefit taught by Lakritz).

Ostrover does not teach the inclusion of a lyric editor configured to automatically convert at least one static lyric set associated with the audio file into a synchronized set associated with the audio file by automatically separating the static lyric set into multiple lyric segments and automatically associating a time code with each of the multiple lyric segments (claims 1, 8, 32, 37, 38, means for language in 43, and 46). Ostrover et al does not explicitly refer to the use of time-codes to be associated with the displaying of lyrical segments (claims 4-6, 36, 39) or that the lyric data is stored with the audio file (claims 2, 34, 40, 45, and 48). The invention of Qian et al is designed to allow a user to edit and create lyric files to be associated with multimedia content (see Figure 18 and its associated description). The synchronization of the audio file with a static lyric file (paragraph 47), can be performed using the "auto-sync" function which performs an automatic association of the lyric file with the audio file, including the insertion of time code data, see paragraphs 63, 73, and 76-79. Qian et al mentions the use of timestamps in paragraph 7 and details the creation of such throughout the specification. It would have been obvious to one of

ordinary skill in the art to include the functionality of the Qian et al invention into the Ostrover et al

invention so as to allow the user to edit and create their captioned multimedia files.

With respect to claim 35, neither Ostrover, Qian nor Lakritz explicitly teaches receiving a request

to change the language while playing back the audio file (though Lakritz does mention receiving a request

for content in a different language), and repeating the steps of determining if the language is available,

and displaying such. The applicant has admitted that it is well-known in the art of multi-media playback to

allow a user to change their original selection. For example, and with reference to the Ostrover patent

specifically, a user watching a motion picture may decide to switch the language options for the sub-titles,

such is commonly available through a menu screen on traditional DVD players. It would have been

obvious to one of ordinary skill in the art to allow the user to redefine the language in which to view the

lyric data (subtitles) during play back of an audio file, and further to repeat the steps of determining if a

requested language was available, so as to allow the user greater flexibility and customization during the

presentation of the audio data.

Response to Arguments

2.   Applicant's amendments are sufficient to overcome the previous rejections under 35 USC §101.

3.   The examiner previously took official notice that is well-known in the art of multi-media playback

to allow a user to change their original selection. Applicant failed to challenge this finding. In accordance

with MPEP 2144.03 this statement is now considered admitted prior art.

4.   Applicant's arguments filed 11/04/2008 have been fully considered but they are not persuasive.

Applicant asserts that the prior art fails to teach the feature of "providing a lyric editor configured to

automatically convert at least one static lyric set associated with the audio file into a synchronized lyric set

associated with the audio file by automatically separating the static lyric set into multiple lyric segments

and automatically associating a time code with each of the multiple lyric segments" as amended into each

of the independent claims. This feature is found in the previously cited and applied Qian et al reference, as shown in the rejection above.

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen Mosser whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3715

January 14, 2009